

AMENDED IN SENATE JUNE 20, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2439

**Introduced by Assembly Member Eng
(Coauthor: Assembly Member Skinner)**

February 24, 2012

An act to add Section 19573 to the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2439, as amended, Eng. Corporation taxes: disclosure.

The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. Existing law requires the Franchise Tax Board to make available as a matter of public record each calendar year a list of the 250 largest tax delinquencies in excess of \$100,000, and requires the list to include specified information with respect to each delinquency.

This bill would, ~~on and after specified dates or before December 1, 2013, and annually thereafter,~~ require *that* the Franchise Tax Board ~~to make available, upon request, specified corporation tax liability and income apportionment information disclosed by specified corporations~~ *publish a list of the 1,500 largest corporate taxpayers per taxable year, including each taxpayer's tax liability and income apportionment*

information, as provided. This bill would also make findings and declarations regarding the intent of the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Publicly traded corporations are required to disclose their
4 federal and state corporation taxes to the federal Securities and
5 Exchange Commission through the Form 10-K. State corporation
6 taxes, however, are aggregated without regard to state, so the
7 information available at the federal level does not specify
8 corporation taxes of particular states.

9 (b) Recent changes in the state's Corporation Tax Law, which
10 provide for the elective use of single-sales factor apportionment,
11 combined with other provisions in this area of tax law, have had
12 little analysis and scrutiny with regard to their impact on taxpayers
13 and California.

14 (c) Therefore, it is the intent of the Legislature, in adding Section
15 19573 to the Revenue and Taxation Code, to supplement federal
16 tax reporting requirements for those corporations filing a Form
17 10-K by ~~adding a single data point that would be available to the~~
18 ~~public upon request. This single data point would disclose the~~
19 ~~amount of specified tax liability of those corporations that are~~
20 ~~already required to disclose their federal and aggregate state~~
21 ~~corporation taxes requiring the Franchise Tax Board to publish a~~
22 ~~list of the 1,500 largest corporate taxpayers filing a Form 10-K.~~

23 SEC. 2. Section 19573 is added to the Revenue and Taxation
24 Code, to read:

25 19573. (a) (1) (A) Notwithstanding any other law, on or
26 before December 1, 2013, and each December 1 thereafter, the
27 Franchise Tax Board shall publish on its Internet Web site a list
28 of the 1,500 largest taxpayers subject to tax under Part 11
29 (commencing with Section 23001), as measured by gross receipts,
30 less returns and allowances, that filed a Form 10-K with the federal
31 Securities and Exchange Commission for that taxable year. The
32 list shall include the name and tax liability of each taxpayer and

1 *whether the taxpayer made an election to apportion its income in*
2 *accordance with Section 25128.5.*

3 *(B) The determination of the taxpayers to be included on a list*
4 *shall be based on timely filed original tax returns for the taxable*
5 *year at issue. In the case of a taxpayer that is included in a*
6 *combined report, the determination to include that taxpayer on a*
7 *list shall be based on the gross receipts, less returns and*
8 *allowances, of the combined reporting group.*

9 *(2) The list published on or before December 1, 2013, shall*
10 *reflect the tax liability, as of October 1, 2013, for the 2010 and*
11 *2011 taxable years. Each subsequent annual list shall reflect the*
12 *tax liability for the taxable year that closed two years before the*
13 *publication of the list.*

14 *(3) For two years after the publication of a list, the Franchise*
15 *Tax Board shall, on or before December 1, update that list to*
16 *reflect any changes in the tax liability of each taxpayer as of*
17 *October 1 of that year.*

18 *(b) For purposes of this section:*

19 *(1) "Tax liability" means the amount of tax owed as a result of*
20 *the taxes imposed under Part 11 (commencing with Section 23001),*
21 *after the application of any credits and excluding overpayments,*
22 *estimated tax payments, withholding, and any other amounts paid.*

23 *(2) "Gross receipts" shall have the same meaning as set forth*
24 *in Section 25120.*

25 ~~SEC. 2. Section 19573 is added to the Revenue and Taxation~~
26 ~~Code, to read:~~

27 ~~19573. (a) (1) On and after September 1, 2014, the Franchise~~
28 ~~Tax Board shall make available, upon request, information~~
29 ~~regarding the tax liability of each corporation that is required to~~
30 ~~file an annual Form 10-K with the federal Securities and Exchange~~
31 ~~Commission. The information made available upon request shall~~
32 ~~be the tax liability for a specified corporation with respect to the~~
33 ~~taxes imposed by Part 11 (commencing with 23001) for the taxable~~
34 ~~year that closed two years before the request made pursuant to this~~
35 ~~subdivision and whether the corporation made an election to~~
36 ~~apportion its income in accordance with Section 25128.5 for that~~
37 ~~taxable year.~~

38 ~~(2) On or before September 1, 2013, the Franchise Tax Board~~
39 ~~shall make available, upon request, information regarding the tax~~
40 ~~liability of each corporation that is required to file an annual Form~~

1 ~~10-K with the federal Securities and Exchange Commission. The~~
2 ~~information made available upon request shall be the tax liability~~
3 ~~with respect to the taxes imposed by Part 11 (commencing with~~
4 ~~23001) for the 2010 and 2011 taxable years and whether the~~
5 ~~corporation made an election to apportion its income in accordance~~
6 ~~with Section 25128.5 for the 2011 taxable year.~~

7 ~~(b) If the tax liability amount is contested or otherwise under~~
8 ~~dispute, by either the taxpayer subject to the taxes imposed~~
9 ~~pursuant to Part 11 (commencing with Section 23001) or the~~
10 ~~Franchise Tax Board, the Franchise Tax Board shall so indicate~~
11 ~~in its response to a request for information regarding the tax~~
12 ~~liability of a corporation.~~

13 ~~(c) For purposes of this section, “tax liability” means the amount~~
14 ~~of tax owed after the application of any credits and excluding~~
15 ~~overpayments, estimated tax payments, withholding, or amounts~~
16 ~~paid with an extension of time to file tax return.~~